

Congress of the United States
House of Representatives
Washington, DC 20515-1806

The comments of Congressman Garret Graves (LA-6) regarding **Docket ID: BSEE-2015-0002, Oil and Gas and Sulphur Operations on the Outer Continental Shelf—Blowout Preventer Systems and Well Control**

Director Salerno,

Thank you for your efforts to apply lessons learned from the Deepwater Horizon disaster to future exploration and production efforts. I share BSEE's stated goal of safe operations in the Gulf of Mexico. We must continue to ensure that disasters such as Deepwater Horizon never occur again.

In updating your regulations, I strongly urge you to keep in mind that the federal court found that BP's actions were "grossly negligent" and their decisions included "willful misconduct." The court went on to criticize the company's "profit driven" and "reckless" decisions. The reality is that we have produced billions of barrels and trillions of cubic feet of natural gas in the Gulf of Mexico and we have done it very safely. In fact, when you compare the various sources of oil spills you will note that the volume of releases from offshore production in the Gulf demonstrates a commitment to safety. Other producers were not labeled as "grossly negligent". My point is that BSEE's proposed rule is somewhat of a solution in search of problems. Statistics suggest that the greatest efficacy of preventing oil spills would be spent improving safety in modes of transportation rather than in exploration and production activities. To be clear, we must continue to innovate, apply lessons learned and improve the culture of safety but these efforts must be calibrated and properly targeted.

For the court to determine gross negligence and willful misconduct, the decision would be based upon compliance with existing safety guidelines. The Deepwater Horizon disaster did not result from inadequate regulations. The disaster was the result of "gross negligence and willful misconduct" in failing to comply with applicable regulations and safety standards. The court did not find the U.S. Department of the Interior liable for the 11 senseless deaths in the explosion – it was BP that was found guilty. In this case, BSEE alone cannot regulate the energy industry into a culture of safety. The training and culture of safety of producers is a critical component to achieving and maintaining safe exploration and production operations. Apply your proposed rules to BP, not to those companies that have a record of decades of safe operations. On April 17, 2015, BSEE published a notice of proposed rulemaking (NPRM) entitled "Oil and Gas and Sulphur Operations on the Outer Continental Shelf—Blowout Preventer Systems and Well Control." Your agency spent more than three years developing this highly complex and technical rule, yet has only provided an abbreviated timeframe for those most impacted to review its implications. Additionally, BSEE has denied repeated requests from stakeholders for an extension to accommodate further analysis and thoughtful public comment. Today, just three short months since the day the comment period opened, the docket will close. This rule was developed by BSEE employees and seems to lack a true understanding of offshore operations. I am very troubled by your agency's ostensible unwillingness to acknowledge the feedback offered by the stakeholders who now must attempt to implement an unworkable regulation.

As previously noted, billions of barrels of oil and trillions of cubic feet of natural gas have been safely and responsibly produced offshore for years under current safety rules, and since the Macondo disaster, a number of new and updated regulations and industry standards have been put in place to prevent such incidents from happening again. However, I am concerned that in its current form BSEE's NPRM will have the opposite effect of its intention.

Any regulation that prevents or discourages energy production would greatly impact local, state, and federal government revenues through the loss of economic activity and through revenue sharing associated with the Gulf of Mexico Energy Security Act. Condensed compliance timeframes could shutdown industry operations over half of the current rig operations by some estimates - reducing our nation's energy security and resulting in thousands of lost jobs. The rule will simply pressure domestic energy providers to seek imports rather than safely-produced domestic oil and gas.

I do not believe it is in the BSEE's best interest to put out a rule that has these unintended consequences, so I request further engagement before the final rule is published.

My specific concerns remain:

- 1) The breadth and complexity of the proposed rule. The pending rule has been under consideration by the Department of Interior for over 3 years. The scope of this federal rule has expanded over the years from a focus on blowout preventer systems to the broader topic of well control. In the agency's own words, this regulation represents "one of the most substantial rulemakings in the history of the BSEE and its predecessor organizations." Yet only a few months were allotted for public scrutiny and input from the true experts on the ground.
- 2) Pending research on critical components of the rule. One of many significant areas covered by this proposed rule is the use of real-time monitoring systems (RTM) offshore. BSEE contracted with the National Academies for their view on the benefits of RTM. This report remains unfinished. Under the current timeline for this proposed rule, there is inadequate time to consider the findings of a completed National Academies report.
- 3) Significant economic impacts are not accounted for in BSEE's initial analysis. The agency's economic analysis states that certain time savings benefits in the proposed rule outweigh the remaining costs included in the entire rule. In other words, BSEE estimates the proposed rule is a net cost savings for drilling operations in the Gulf of Mexico. While it is still early days for industry experts to weigh in on the economic impacts, initial indications are that the rule would have a substantial net cost to oil and gas activities in the Gulf of Mexico. Far from an estimated cost savings, there are concerns that certain provisions in this draft rule are unworkable as written and could effectively shut-down drilling operations in the Gulf of Mexico—similar to another drilling moratorium. BSEE requested comments on the economic analysis included in the proposed rule. It is important that the Administration and Congress receive an accurate estimate of the expected economic impacts.

As the Agency moves forward in its rulemaking process, it is my hope that it will engage and consider stakeholders concerns. The oil and gas industry provides an estimated \$73.8 billion economic benefit to the state of Louisiana. This proposed BOP and Well Control rule has the potential to impact not only the oil and natural gas industry but people's livelihood. It is important to get this right. As a Member of the House Committee on Natural Resources, one of the lead responders in Deepwater Horizon and lead trustee in the Natural Resources Damages Assessment, I plan to make this rulemaking a top priority.

Again, I appreciate your efforts to improve safety but am afraid this one misses the mark.

Very respectfully,

A handwritten signature in black ink, appearing to read "Garret Graves", with a long horizontal flourish extending to the right.

Garret Graves
Member of Congress